

MORTGAGE LOAN ORIGINATOR LICENSURE AND OTHER REQUIREMENTS

CHAPTER 80-11-5

80-11-5-.01	Mortgage Loan Originator Licensure Requirements.	80-11-5-.04	Renewals.
80-11-5-.02	Books and Records Requirements; Examination	80-11-5-.05	Administrative Fines.
80-11-5-.03	Licensed Location.	80-11-5-.06	Administrative Actions; Nationwide Mortgage Licensing System and Registry Information Challenges.

80-11-5-.01 Mortgage Loan Originator Licensure Requirements.

(1) Unless exempt from licensure pursuant to O.C.G.A. § 7-1-1001, a mortgage loan originator may not engage in the business of mortgage loan origination without obtaining and maintaining a current Georgia mortgage loan originator's license issued through the National Mortgage Licensing System and Registry (NMLSR).

(2)(a) Unless a mortgage loan originator is employed by an exempt entity, no mortgage loan originator may work in the state of Georgia without having proper sponsorship on record with the NMLSR by a licensed or registered Georgia mortgage broker or mortgage lender. For purposes of this Rule Chapter, "sponsorship" means the authorization for a mortgage loan originator to conduct business as an employee under and on behalf of a specific mortgage broker or mortgage lender's license or registration. Sponsorship must be initiated and maintained by the licensed or registered mortgage broker or mortgage lender employing a mortgage loan originator.

(b) Sponsorship must be accepted by the Department. Once established, a sponsorship can be removed by either the employing licensee or registrant or by the mortgage loan originator. It shall be the responsibility of every licensee or registrant to ensure that the status of a mortgage loan originator is correctly reflected at all times on the NMLSR.

(3) A mortgage loan originator shall have coverage under the surety bond of his or her licensed or registered mortgage broker or mortgage lender employer, or under a surety bond maintained by the loan originator.

(a) A surety bond covering the mortgage loan originator shall have a stated term of one year or more and shall expire a minimum of twelve (12) months from the date of issuance. The bond requirement is continuous in nature.

(b) A mortgage loan originator operating under the bond of his or her mortgage licensee or registrant employer must be covered continuously under his or her employer's bond under his or her name of record under the NMLRS and ensure such coverage is in effect during the time that the mortgage loan originator is engaged in making Georgia mortgage loans for that employer.

(c) A mortgage loan originator required to obtain his or her own surety bond coverage shall obtain a bond in the amount of at least \$10,000 for mortgage loan originators that originate between \$1 dollar and \$10 million dollars annually, or a bond in the amount of at least \$15,000 for mortgage loan originators that originate greater than \$10 million dollars annually. The bond obtained by a mortgage loan originator must be provided to the Department in a form acceptable to the agency. All

other provisions concerning surety bond coverage maintained by a mortgage loan originator's employer must be met by mortgage loan originators maintaining their own coverage.

(d) Surety bonds provided to the Department are deemed to be records of the Department and will not be released or returned to licensees or to the entities by which they were issued.

(4) Mortgage loan originator bond coverage shall not be canceled by either the employing licensed or registered mortgage broker or mortgage lender, the mortgage loan originator licensee or the corporate surety except upon notice to the Department by registered or certified mail or statutory overnight delivery with return receipt requested. The cancellation shall not be effective less than thirty (30) days after receipt by the Department of such notice.

Authority O.C.G.A. § 7-1-1001.1; § 7-1-1002; § 7-1-1003.2; and § 7-1-1004.

80-11-5-02 Books and Records Requirements; Examinations

(1) The Department may examine the mortgage related books and records of any licensed mortgage loan originator as specified in O.C.G.A. § 7-1-1009.

(2) Any person who is acting as a mortgage loan originator and is required to be licensed shall maintain a journal of mortgage loan transactions, which shall include, at a minimum, the following information:

(a) Full name of proposed borrower and all co-borrowers;

(b) Date the mortgage loan originator took application for the mortgage loan;

(c) Name and the unique identifier or Federal Regulatory Number of the mortgage licensee or registrant sponsoring the loan originator;

(d) Disposition of the mortgage loan application and date of disposition. The journal shall indicate the result of the loan transaction. The disposition of the application shall be categorized as one of the following: loan closed, loan denied, application withdrawn, application in process or other (explanation to be provided);

(e) The journal shall be kept current, updated no less frequently than every seven (7) days. The failure to initiate an entry to the journal within seven (7) business days from the date of the occurrence of the event required to be recorded in the journal shall be deemed a failure to keep the journal current.

(f) Failure to maintain the mortgage loan journal or to keep the journal current (incidental and isolated clerical errors or omissions shall not be considered a violation) may be grounds for suspension or revocation of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the department.

(3) All mortgage loan originators who are required to be licensed under Article 13 of Title 7 of the O.C.G.A. and maintain their own surety bond coverage must keep copies of their bonds and also provide copies to their sponsoring/employing mortgage brokers or mortgage lenders.

(4) All books and records and accounts required by this rule shall be maintained by a mortgage loan originator for a period of five (5) years.

Authority O.C.G.A. § 7-1-1009.

80-11-5-03 Licensed Location.

All licensed mortgage loan originators must maintain an office of record with the Department. If the mortgage loan originator is not domiciled in Georgia, then the main office location of the sponsoring/employing licensee or registrant shall serve as the official employment address of the loan originator. Those licensed mortgage loan originators domiciled within Georgia must reflect the office from which they are supervised by their employer, either the main office or an approved branch location.

Authority O.C.G.A. § 7-1-1003.

80-11-5-04 Renewals.

(1) Mortgage loan originator licenses shall expire on December 31st of each calendar year. A mortgage loan originator must meet the following requirements in order to have his or her license renewed:

(a) A mortgage loan originator must continue to meet the minimum standards for license issuance.

(b) A loan originator must satisfy the continuing education requirements of O.C.G.A. § 7-1-1004(g). The applicant must obtain on an annual basis eight (8) hours of approved continuing education in mortgage courses from an NMLSR approved provider. Of these eight (8) hours, seven (7) hours must be obtained in course work addressing the subjects identified in O.C.G.A. § 7-1-1004 (g)(1), and at least one (1) hour of continuing education must be obtained in coursework addressing the Georgia Residential Mortgage Act, specifically any changes made to the statute and its corresponding regulations.

(c) Courses taken to meet the approved continuing education requirements of the NMLSR for any state shall be accepted as credit towards continuing education requirements in Georgia, with the exception that one (1) hour of the required courses must cover laws and regulations related to Georgia mortgage licensure, not that of another state.

(d) Continuing education credit hours must be obtained annually between November 1 and October 31 prior to the next November 1 license renewal date. The Department, in its discretion, may accept continuing education hours completed between November 1 and December 31 of a year as part of the license renewal requirement for the then current license renewal. Licensees/applicants that fail to obtain by October 31 of a year at least eight (8) continuing education hours will be subject to a one thousand dollar (\$1,000) fine.

(e) Upon submitting an application to renew a license, failure to document to the Department's satisfaction proof of completion of eight (8) continuing education hours by October 31 along with the failure to obtain and document proof of completion of these hours by December 31 with payment of the one thousand dollar (\$1,000) fine shall result in the expiration of the mortgage loan originator's license.

(f) Continuing education credits are only valid in the year in which the courses are taken. Credits earned during November 1 through December 31 will be excluded from consideration for continuing education credit hours earned for the subsequent renewal period. When continuing education hours are obtained by a mortgage loan originator, only credit hours obtained from January 1 to October 31 shall be considered for purposes of meeting the eight (8) hours of continuing education required in the subsequent renewal period.

(2) A mortgage loan originator licensed on or after January 1, 2010, whose license has not been maintained for a period of up to five (5) years shall provide proof of completion of the continuing education requirements for the last year in which the license was held in order to reinstate it. Should reinstatement of an expired license be sought for a license that has not been maintained for a period of five (5) years or more, such reinstatement application will require that the applicant again meet the testing requirements set forth in O.C.G.A. § 7-1-1004 (e) and (f). If a person has worked as a registered loan originator at any time during the lapsed license period, the period of time the registered mortgage loan officer was employed in this capacity shall not count toward the calculation of the time period for the continuing education and testing requirements of this paragraph.

Authority O.C.G.A. § 7-1-1004(e)(4); § 7-1-1004.2; § 7-1-1005.

80-11-5-.05 Administrative Fines.

(1) The Department establishes the following fines and penalties for violation by mortgage loan originators of the Georgia Residential Mortgage Act or its rules. The Department, in its sole discretion, may waive or modify any fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(2) All fines levied by the Department are due within thirty (30) days from date of assessment and must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, or reapplication for a license or registration, or any other activity requiring Departmental approval.

(3) All fines collected by the Department shall be paid into the state treasury to the credit of the general fund.

(4) The following fines shall be assessed for violations of the Georgia Residential Mortgage Act and Department rules:

(a) Dealing with Unlicensed Persons. A mortgage loan originator that purchases, sells, places for processing or transfers (or performs activities which are the equivalent thereof) a mortgage loan or loan application to or from a person who is required to be but is not duly licensed under GRMA shall be subject to a fine of one thousand dollars (\$1,000) per transaction and his or her license shall be subject to suspension or revocation.

(b) Unapproved Location. A mortgage loan originator that operates from a location in Georgia other than a required approved location on record with the Department shall be subject to a fine of five hundred dollars (\$500) per unapproved location operated and his or her license may be subject to revocation or suspension.

(c) Doing Business Without a License or in Violation of Administrative Order. Any person who acts as a mortgage loan originator prior to receiving a current license or registration required under GRMA, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per transaction and the mortgage loan originator's application will be subject to denial or his or her license or registration will be subject to revocation or suspension.

(d) Books and Records Violations. If the Department, in the course of an examination or investigation, finds that a mortgage loan originator licensee or registrant has failed to maintain his or her books and records according to the requirements of Rule 80-11-5-.04, such licensee or registrant may be subject to a fine of one thousand dollars (\$1,000) for each violation of a books and records found to occur.

(e) Prohibited Acts. Any person who is required to be licensed under O.C.G.A. Title 7, Article 13 as a mortgage loan originator who violates the provisions of O.C.G.A. §7-1-1013 shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and his or her license shall be subject to suspension or revocation.

(f) Education and Experience Requirements. A mortgage loan originator subject to the experience and education requirements who fails to meet such requirements shall be fined one thousand dollars (\$1,000) for conducting mortgage business without meeting licensing standards, and his or her license will be subject to revocation or suspension.

(g) Advertising. A mortgage loan originator that is required to be licensed who violates the regulations relative to advertising contained in O.C.G.A. §§ 7-1-1004.3 and 7-1-1016 or the advertising requirements of the Department shall be subject to a fine of five hundred dollars (\$500) for each violation of law or rule.

(h) Failure to Submit to Examination or Investigation. The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department) shall be revocation of the license or registration and a five thousand dollars (\$5,000) fine. Refusal shall be determined according to Department examination policies and procedures, but shall require at least two attempts to schedule an examination or investigation.

Authority O.C.G.A. § 7-1-1018(g).

80-11-5-06 Administrative Actions; Nationwide Mortgage Licensing System and Registry Information Challenges.

(1) Final administrative actions taken against mortgage loan originators shall be considered public information and may be disseminated through the Nationwide Mortgage Licensing System and Registry (NMLS) or by the Department.

(2) A mortgage loan originator may challenge information entered by the Department into the NMLS. All challenges must be sent to the Department in writing addressed to the attention of the Deputy Commissioner of Non-Depository Financial Institutions. Once received, the Department shall consider the merits of the challenge raised and provide the mortgage loan originator with a written reply that shall be the agency's final decision in response thereto.

Authority O.C.G.A. § 7-1-61; § 7-1-1003.6; § 7-1-1004.2; § 7-1-1012.